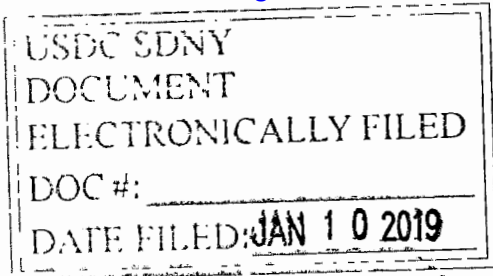


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA

- v. -

RICHARD D. HART,  
a/k/a "Rick Hart,"

Defendant.

INFORMATION

S1 17 Cr. 248 (VLB)

COUNT ONE

(Conspiracy to Commit Mail Fraud and Wire Fraud)

The United States Attorney charges:

Background

1. From at least in or about 2009 through at least in or about July 2015, Commerce Payment Systems did business as a payment card processor for its merchant-customers, who were merchants and small businesses that accepted credit cards and debit cards from consumers. Commerce Payment Systems' management and employees operated under a variety of corporate names, including "Commerce Payment Systems," "Commerce Payment Group," "Merchant Commerce," "Empire Payments," "Evolution Bankcard," and "Optimal Bankcard" (collectively referred to herein as "CPS").

2. RICHARD D. HART, a/k/a "Rick Hart," the defendant, was employed at CPS from in or about December 2011 through in or about February 2015. For most of that time, HART was the

supervisor of the majority of CPS's sales representatives, and held himself out at times as an executive of CPS and its various corporate affiliates.

3. From at least in or about December 2011, through at least in or about February 2015, RICHARD D. HART, a/k/a "Rick Hart," the defendant, participated in a scheme to defraud the merchant-customers of CPS. In the course of the scheme, HART used false and deceptive statements to market and sell CPS's services as a payment card processor. Specifically, the fees and other charges that CPS collected from its merchant-customers for providing CPS's payment card processing services far exceeded what HART and his co-conspirators represented to CPS's merchant-customers in CPS's marketing materials, sales calls, and written agreements.

#### STATUTORY ALLEGATIONS

4. From at least in or about December 2011, through at least in or about February 2015, in the Southern District of New York and elsewhere, RICHARD D. HART, a/k/a "Rick Hart," the defendant, and others known and unknown, willfully and knowingly, combined, conspired, confederated and agreed together and with each other to commit an offense against the United States, to wit, mail fraud and wire fraud, in violation of Title 18, United States Code, Sections 1341 and 1343.

5. It was a part and an object of the conspiracy that RICHARD D. HART, a/k/a "Rick Hart," the defendant, and others known and unknown, knowingly and willfully, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and would and did take and receive therefrom, a matter and thing, and would and did cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, such matter and thing, in violation of Title 18, United States Code, Section 1341.

6. It was a further part and an object of the conspiracy that RICHARD D. HART, a/k/a "Rick Hart," the defendant, and others known and unknown, knowingly and willfully, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false

and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

OVERT ACTS

7. In furtherance of the conspiracy and to effect the illegal objects thereof, RICHARD D. HART, a/k/a "Rick Hart," the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about August 29, 2013, HART sent an email to an employee whom HART supervised, instructing that employee to tell a prospective customer that CPS did not charge its customers a Payment Card Industry ("PCI") Data Security Standard fee, when in truth and in fact, as HART well knew, CPS charged its customers PCI fees of approximately \$99 per year.

b. On or about February 20, 2014, a sales representative employed by CPS spoke by telephone with a prospective customer in Dutchess County, New York, and convinced that prospective customer to sign a card processing agreement with CPS.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATION

8. As a result of committing the offenses charged in Count One of this Informaton, RICHARD D. HART, a/k/a "Rick Hart," the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any and all property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offenses alleged in Count One of this Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses.

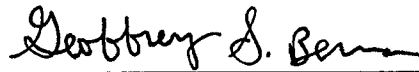
Substitute Asset Provision

9. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981;  
Title 21, United States Code, Section 853(p); and  
Title 28, United States Code, Section 2461(c).)



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GEOFFREY S. BERMAN TH  
United States Attorney

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SOUTHERN DISTRICT OF NEW YORK

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(18 U.S.C. § 371)

GEOFFREY S. BERMAN  
United States Attorney.

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